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6 **BEFORE THE**
7 **BOARD OF REGISTERED NURSING**
8 **DEPARTMENT OF CONSUMER AFFAIRS**
9 **STATE OF CALIFORNIA**

10 In the Matter of the Accusation Against:

Case No. 2011-475

11 **CARL MANFORD HUGHES**
12 **1222 Old Stage Road**
13 **Fallbrook, CA 92028**

DEFAULT DECISION AND ORDER

14 **Registered Nurse License No. 595842**

[Gov. Code, §11520]

15
16 Respondent.

17 **FINDINGS OF FACT**

18 1. On or about November 23, 2010, Complainant Louise R. Bailey, M.Ed., RN, in her
19 official capacity as the Executive Officer of the Board of Registered Nursing, Department of
20 Consumer Affairs, filed Accusation No. 2011-475 against Carl Manford Hughes (Respondent)
21 before the Board of Registered Nursing. (Accusation attached as Exhibit A.)

22 2. On or about March 7, 2002, the Board of Registered Nursing (Board) issued
23 Registered Nurse License No. 595842 to Respondent. The Registered Nurse License was in full
24 force and effect at all times relevant to the charges brought herein and will expire on April 30,
25 2012, unless renewed.

26 3. On or about November 23, 2010, Respondent was served by Certified and First Class
27 Mail copies of the Accusation No. 2011-475, Statement to Respondent, Notice of Defense,
28 Request for Discovery, and Discovery Statutes (Government Code sections 11507.5, 11507.6,
and 11507.7) at Respondent's address of record which, pursuant to Business and Professions

1 Code section 136 and California Code of Regulations, title 16, section 1409.1, is required to be
2 reported and maintained with the Board, which was and is:

3 1222 Old Stage Road
4 Fallbrook, CA 92028

5 4. Service of the Accusation was effective as a matter of law under the provisions of
6 Government Code section 11505, subdivision (c) and/or Business & Professions Code section
7 124.

8 5. Government Code section 11506 states, in pertinent part:

9 (c) The respondent shall be entitled to a hearing on the merits if the respondent
10 files a notice of defense, and the notice shall be deemed a specific denial of all parts
11 of the accusation not expressly admitted. Failure to file a notice of defense shall
12 constitute a waiver of respondent's right to a hearing, but the agency in its discretion
13 may nevertheless grant a hearing.

14 6. Respondent failed to file a Notice of Defense within 15 days after service upon him
15 of the Accusation, and therefore waived his right to a hearing on the merits of Accusation No.
16 2011-475.

17 7. California Government Code section 11520 states, in pertinent part:

18 (a) If the respondent either fails to file a notice of defense or to appear at the
19 hearing, the agency may take action based upon the respondent's express admissions
20 or upon other evidence and affidavits may be used as evidence without any notice to
21 respondent.

22 8. Pursuant to its authority under Government Code section 11520, the Board finds
23 Respondent is in default. The Board will take action without further hearing and, based on the
24 relevant evidence contained in the Default Decision Investigatory Evidence Packet in this matter,
25 as well as taking official notice of all the investigatory reports, exhibits and statements contained
26 therein on file at the Board's offices regarding the allegations contained in Accusation No. 2011-
27 475, finds that the charges and allegations in Accusation No. 2011-475, are separately and
28 severally true and correct by clear and convincing evidence.

9. Taking official notice of its own internal records, pursuant to Business and
Professions Code section 125.3, it is hereby determined that the reasonable costs for Investigation
and Enforcement is \$650.00 as of December 22, 2010.

DETERMINATION OF ISSUES

1. Based on the foregoing findings of fact, Respondent Carl Manford Hughes has subjected his Registered Nurse License No. 595842 to discipline.

2. The agency has jurisdiction to adjudicate this case by default.

3. The Board of Registered Nursing is authorized to revoke Respondent's Registered Nurse License based upon the following violations alleged in the Accusation which are supported by the evidence contained in the Default Decision Investigatory Evidence Packet in this case:

a. Respondent subjected his registered nurse license to disciplinary action under sections 490 and 2761, subdivision (f) of the Code in that on or about April 27, 2010, in a criminal proceeding entitled *People of the State of California v. Carl Manford Hughes*, in San Diego Superior Court (North County Division), case number CN272065, Respondent was convicted on his plea of guilty of violating Vehicle Code section 23103.5, "wet" reckless driving, a lesser, substituted charge for the violation of driving under the influence of alcohol, a crime that is substantially related to the qualifications, functions, and duties of a registered nurse.

b. Respondent subjected his registered nurse license to disciplinary action under section 2762, subdivision (b) of the Code in that on or about November 23, 2009, Respondent used alcoholic beverages to an extent or in a manner that was potentially dangerous or injurious to himself and to others in that he operated a motor vehicle while under the influence of alcohol with blood alcohol concentration of nearly .27 percent, over three times the legal limit.

c. Respondent has subjected his registered nurse license to disciplinary action under section 2762, subdivision (c) of the Code in that on or about April 27, 2010, Respondent was convicted of a criminal offense involving the consumption and/or self-administration of alcohol, which constitutes unprofessional conduct.

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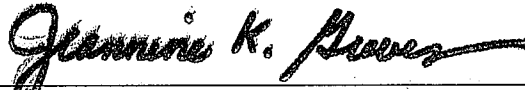
ORDER

IT IS SO ORDERED that Registered Nurse License No. 595842, heretofore issued to Respondent Carl Manford Hughes, is revoked.

Pursuant to Government Code section 11520, subdivision (c), Respondent may serve a written motion requesting that the Decision be vacated and stating the grounds relied on within seven (7) days after service of the Decision on Respondent. The agency in its discretion may vacate the Decision and grant a hearing on a showing of good cause, as defined in the statute.

This Decision shall become effective on April 1, 2011.

It is so ORDERED March 1, 2011.



FOR THE BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS

DOJ Matter ID: SD2010702392

Attachment:
Exhibit A: Accusation

Exhibit A

Accusation

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Attorneys for Complainant
8

9 **BEFORE THE**
BOARD OF REGISTERED NURSING
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

13 **CARL MANFORD HUGHES**
1222 Old Stage Road
14 Fallbrook, CA 92028

15 **Registered Nurse License No. 595842**

16 Respondent.
17

Case No. 2011-475

A C C U S A T I O N

18 **PARTIES**

19 1. Louise R. Bailey, M.Ed., RN (Complainant) brings this Accusation solely in her
20 official capacity as the Interim Executive Officer of the Board of Registered Nursing, Department
21 of Consumer Affairs.

22 2. On or about March 7, 2002, the Board of Registered Nursing issued Registered Nurse
23 License Number 595842 to Carl Manford Hughes (Respondent). The Registered Nurse License
24 was in full force and effect at all times relevant to the charges brought herein and will expire on
25 April 30, 2012, unless renewed.

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JURISDICTION

3. This Accusation is brought before the Board of Registered Nursing (Board), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code (Code) unless otherwise indicated.

4. Section 2750 of the Code provides, in pertinent part, that the Board may discipline any licensee, including a licensee holding a temporary or an inactive license, for any reason provided in Article 3 (commencing with section 2750) of the Nursing Practice Act.

5. Section 2764 of the Code provides, in pertinent part, that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or to render a decision imposing discipline on the license. Under section 2811, subdivision (b) of the Code, the Board may renew an expired license at any time within eight years after the expiration.

STATUTORY PROVISIONS

6. Section 490 of the Code provides, in pertinent part, that a board may suspend or revoke a license on the ground that the licensee has been convicted of a crime substantially related to the qualifications, functions, or duties of the business or profession for which the license was issued.

7. Section 493 of the Code states:

Notwithstanding any other provision of law, in a proceeding conducted by a board within the department pursuant to law to deny an application for a license or to suspend or revoke a license or otherwise take disciplinary action against a person who holds a license, upon the ground that the applicant or the licensee has been convicted of a crime substantially related to the qualifications, functions, and duties of the licensee in question, the record of conviction of the crime shall be conclusive evidence of the fact that the conviction occurred, but only of that fact, and the board may inquire into the circumstances surrounding the commission of the crime in order to fix the degree of discipline or to determine if the conviction is substantially related to the qualifications, functions, and duties of the licensee in question.

As used in this section, "license" includes "certificate," "permit," "authority," and "registration."

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1 (b) Failure to comply with any mandatory reporting requirements.

2 (c) Theft, dishonesty, fraud, or deceit.

3 (d) Any conviction or act subject to an order of registration pursuant to Section
4 290 of the Penal Code.

5 11. California Code of Regulations, title 16, section 1445 states:

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7 (b) When considering the suspension or revocation of a license on the grounds
8 that a registered nurse has been convicted of a crime, the board, in evaluating the
9 rehabilitation of such person and his/her eligibility for a license will consider the
10 following criteria:

11 (1) Nature and severity of the act(s) or offense(s).

12 (2) Total criminal record.

13 (3) The time that has elapsed since commission of the act(s) or offense(s).

14 (4) Whether the licensee has complied with any terms of parole, probation,
15 restitution or any other sanctions lawfully imposed against the licensee.

16 (5) If applicable, evidence of expungement proceedings pursuant to Section
17 1203.4 of the Penal Code.

18 (6) Evidence, if any, of rehabilitation submitted by the licensee.

19 COSTS

20 12. Section 125.3 of the Code provides, in pertinent part, that the Board may request the
21 administrative law judge to direct a licensee found to have committed a violation or violations of
22 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
23 enforcement of the case.

24 FIRST CAUSE FOR DISCIPLINE

25 (April 27, 2010 Criminal Conviction for Reckless Driving on November 23, 2009)

26 13. Respondent has subjected his registered nurse license to disciplinary action under
27 sections 490 and 2761, subdivision (f) of the Code in that Respondent was convicted of a crime
28 that is substantially related to the qualifications, functions, and duties of a registered nurse. The
circumstances are as follows:

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1 a. On or about April 27, 2010, in a criminal proceeding entitled *People of the*
2 *State of California v. Carl Manford Hughes*, in San Diego Superior Court (North County
3 Division), case number CN272065, Respondent was convicted on his plea of guilty of violating
4 Vehicle Code section 23103.5, "wet" reckless driving, a lesser, substituted charge for the
5 violation of driving under the influence of alcohol.

6 b. As a result of the conviction, on or about April 27, 2010, Respondent was
7 sentenced to three years summary probation, and ordered to attend and complete a First
8 Conviction Program, pay \$1,500 in fees, fines, and restitution, and comply with standard alcohol
9 conditions. Respondent was further committed to the custody of the sheriff for one (1) day, and
10 perform 100 hours of volunteer work.

11 c. The facts that led to the conviction are that on or about the late evening of
12 November 23, 2009, Respondent followed a San Diego County Sheriff's deputy into the parking
13 lot of the Fallbrook substation. The deputy contacted Respondent at his vehicle. Respondent was
14 crying, appeared highly intoxicated, and admitted to the deputy that he was drunk. Respondent
15 complained of severe chest pains, so paramedics were called and he was taken to Fallbrook
16 Hospital. The deputy contacted the California Highway Patrol and two officers were sent to the
17 hospital to evaluate Respondent. Respondent was on a gurney in the hospital's emergency room.
18 His eyes were extremely bloodshot, his speech was slurred, and he had the strong odor of an
19 alcoholic beverage emitting from his breath. The officer attempted to administer field sobriety
20 tests, but Respondent was unable to perform them as explained and demonstrated. Respondent
21 was placed under arrest for driving under the influence of alcohol. Respondent submitted to a
22 preliminary alcohol screening (PAS) test at the hospital with results of .269 and .265 blood
23 alcohol concentration (BAC).

24 **SECOND CAUSE FOR DISCIPLINE**

25 **(Unprofessional Conduct - Use of Alcohol in a Dangerous Manner)**

26 14. Respondent has subjected his registered nurse license to disciplinary action under
27 section 2762, subdivision (b) of the Code in that on or about November 23, 2009, as described in
28 paragraph 13, above, Respondent used alcoholic beverages to an extent or in a manner that was

1 potentially dangerous or injurious to himself and to others in that he operated a motor vehicle
2 while under the influence of alcohol with blood alcohol concentration of nearly .27 percent, over
3 three times the legal limit.

4 **THIRD CAUSE FOR DISCIPLINE**

5 **(Unprofessional Conduct - Conviction of an Alcohol-Related Criminal Offense)**

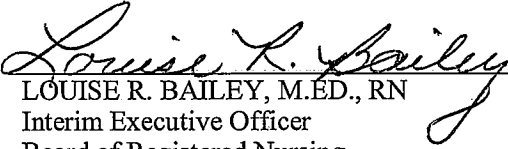
6 15. Respondent has subjected his registered nurse license to disciplinary action under
7 section 2762, subdivision (c) of the Code in that on or about April 27, 2010, as described in
8 paragraph 13, above, Respondent was convicted of a criminal offense involving the consumption
9 and/or self-administration of alcohol, which constitutes unprofessional conduct.

10 **PRAYER**

11 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
12 and that following the hearing, the Board of Registered Nursing issue a decision:

- 13 1. Revoking or suspending Registered Nurse License Number 595842, issued to Carl
14 Manford Hughes;
- 15 2. Ordering Carl Manford Hughes to pay the Board of Registered Nursing the
16 reasonable costs of the investigation and enforcement of this case, pursuant to Business and
17 Professions Code section 125.3;
- 18 3. Taking such other and further action as deemed necessary and proper.

19
20 DATED: 11/23/10


LOUISE R. BAILEY, M.ED., RN
Interim Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant

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